

Department of Social Services Division of Licensing Programs STANDARD OPERATING PROCEDURE	TITLE: PROBLEM SOLVING CONFERENCES	PROCEDURE NUMBER SOP-307
		EFFECTIVE DATE: September 29, 2005
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307-1.0 PURPOSE

To establish operating procedures for licensing staff to conduct problem solving conferences.

307-2.0 SCOPE

This standard operating procedure applies to all first step and second step review problem solving conferences conducted by staff of the Division of Licensing Programs (DOLP).

307-3.0 DEFINITIONS

DOLPHIN (Division Of Licensing Programs Help and Information Network):
The Division's data system that manages information about applicants and licensed providers and serves as a tool for the work of licensing staff.

First step review: The initial consideration of the applicant or licensee's concern, conducted by the Licensing Administrator (LA), which can be either a desk review or a face-to-face meeting with the applicant or licensee.

Licensing representative: This usually refers to the staff delegated to provide ongoing regulatory oversight for a facility by the appropriate licensing office or unit. With proper designation by the licensing administrator or division management, however, staffs conducting such regulatory activities may be: staffs who perform similar functions for other facilities or licensing offices; a member of the division's central staff; or, a non-VDSS employee approved by the commissioner or division director.

Problem solving Conference: An informal proceeding(s), not governed by the Administrative Process Act, by which an applicant or licensee may contest DOLP procedures, interpretation of standards, or the actions of licensing personnel. The proceeding(s) does not involve sworn testimony and is not governed by rules of evidence.

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Synchronize: The act of transferring information collected on the LIM (License Inspection Module) by the licensing representative at the inspection to LicenseEase. The LIM and LicenseEase are the two basic components of DOLPHIN.

Second step review: A second desk review or face-to-face meeting, conducted by program supervisory personnel as assigned by the division director (or designee), when the applicant or licensee believes that the laws, regulations or departmental policies have been applied or interpreted in a manner that was unreasonable, arbitrary, or capricious.

307-4.0 PROCEDURES

The licensing administrator and assigned central office staff shall conduct problem solving conferences at the request of applicants/licensees to review the activities of licensing representatives and ensure consistency in the implementation of procedures, interpretation of standards, and use of professional judgment.

307-4.1 Procedures for First-Step Review:

307-4.1.1 Processing a Request

1. The licensing office shall initiate procedures for a problem solving conference upon written request from an applicant/licensee.
 - a. The licensing representative shall notify the licensing administrator immediately upon receipt of a letter requesting a problem solving conference.
 - b. The licensing administrator shall follow procedures in 4.1.2 below when the applicant/licensee requests a desk review or procedures in 4.1.3 when he/she requests a face-to-face conference.

NOTE: The procedures for a problem solving conference should not delay the imposition of sanctions.

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c. The licensing administrator shall follow procedures for desk reviews in 4.1.2 if the applicant/licensee does not specify a preferred method for the problem solving conference.

2. The licensing representative shall notify the applicant/licensee in writing that if the request for a problem solving conference is to contest a finding, it will not be considered if the request letter arrives more than 15 days following the receipt of the violation notice from the licensing representative.

307-4.1.2 First Step Desk Review

1. The licensing administrator shall review all documents that were available to DOLP at the time the initial decision was made, any materials submitted by the applicant/licensee, and other pertinent documentation.
2. The licensing administrator shall consult as necessary with the licensing representative to clarify or give input on any information submitted by the applicant/licensee.
3. The licensing administrator shall also consult as needed with DOLP program consultants for assistance in making a determination.
4. The licensing administrator shall make a determination and complete the Problem Solving Conference Summary Letter (Appendix A).

307-4.1.3 First Step Review Conference

1. The licensing administrator shall notify the applicant/licensee of the date and time of the first step review conference, which must take place at the licensing office (or other location designated by the licensing administrator) within 30 days of receipt of the request.
2. The licensing administrator shall notify the applicant/licensee in advance that he or she may bring to the conference any relevant documentation or individuals who may have knowledge of the issues in question.
3. The licensing administrator shall conduct the conference on the scheduled date, listening to the concerns of the applicant/licensee and asking questions as needed to clarify the information presented during the conference.

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4. The licensing administrator shall consult as necessary with the licensing representative during or after the conference to clarify any aspect of the issues presented by the applicant/licensee.
5. The licensing administrator shall also consult as needed with DOLP program consultants for assistance in making a determination.
6. The licensing administrator shall make a determination and complete the Problem Solving Conference Letter (Appendix A).

307-4.1.4 Notification of Decision from First Step Review

1. The licensing administrator shall send the Problem Solving Conference Summary Letter to the applicant/licensee to communicate the determination from the first step review.
 - a. The licensing administrator shall send the letter within 10 days of the request for a problem solving conference if he or she makes the determination through a first step desk review.
 - b. The licensing administrator shall send the letter within 10 days of the conclusion of the conference if he or she makes the determination through a first step review conference.
 - c. The licensing administrator shall fax or email a copy of the completed Problem Solving Conference Summary Letter to the operations manager.
2. Contents of Summary Letter
 - a. The licensing administrator shall address each issue raised by the applicant/licensee, including relevant citations to code or standards, and additional items presented by the applicant/licensee.
 - b. The licensing administrator shall state the specific reason(s) for the decision rendered regarding each issue.
 - c. The licensing administrator shall notify the applicant/licensee when there will be a rescission of any portion of the violation notice.

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3. Rescissions to a Violation Notice

- a. The licensing representative (or licensing technician) shall access the relevant record in DOLPHIN and make any applicable changes to the inspection/violation following the determination from the first step review.
- b. The licensing representative (or licensing technician) shall synchronize the case, print the amended violation notice, and forward it to the applicant/licensee for signature.
- c. The licensing representative (or licensing technician) shall retain the original, signed copy of the violation notice in the licensing record, once it has been returned by the licensee.

307-4.2 Procedures for Second Step Review:

307-4.2.1 Processing a Request

1. The licensing administrator shall notify the assistant division director upon receipt of a written request from an applicant/licensee for a second step review following notification of the determination from the first step review.
2. The division director (or designee, such as the assistant director) shall assign an individual from the central office staff to serve as a reviewer for the second step review and notify the licensing office about the appointment.
3. The licensing office shall immediately forward materials related to the request to the appointed reviewer in the central office.
4. The reviewer shall follow procedures in 4.2.2 below when the applicant/licensee requests a desk review or procedures in 4.2.3 when he/she requests a face-to-face conference.
5. The reviewer shall follow procedures for desk reviews in 4.2.2 if the applicant/licensee does not specify a preferred method for the second step review.

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307-4.2.2 Second Step Desk Review

1. The reviewer shall examine all documents that were available to DOLP at the time the initial decision was made, as well as any materials submitted by the applicant/licensee.
2. The reviewer shall consult as necessary with the licensing administrator and licensing representative to clarify any information presented by the applicant/licensee.
3. The reviewer shall also consult as needed with DOLP program consultants for assistance in making a determination.
4. The reviewer shall weigh all of the information and make a determination.

307-4.2.3 Second Step Review Conference

1. The reviewer shall notify the applicant/licensee of the date and time of the second step review conference, which must occur within 30 days of receipt of the request.

NOTE: The conference shall take place at the facility, licensing office, DOLP central office, or another location convenient to the applicant/licensee.

2. The reviewer shall notify the applicant/licensee in advance that he or she may bring to the conference any relevant documentation or individuals who may have knowledge of the issues in question.
3. The reviewer shall notify the licensing office of the date and time of the conference and indicate that the licensing administrator and licensing representative may attend.
4. The reviewer shall conduct the conference on the scheduled date, listening to the concerns of the applicant/licensee and asking the applicant/licensee, witnesses, licensing administrator, and licensing representative questions as needed to clarify the information presented during the conference.
5. The reviewer shall consult as needed with the licensing administrator and licensing representative during or after the conference to clarify any aspect of the issues presented by the applicant/licensee.

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6. The reviewer shall also consult as needed with DOLP program consultants for assistance in making a determination from the second step review.

307-4.2.4 Notification of Decision from Second Step Review

1. The reviewer shall report in writing to the applicant/licensee the findings of the second step desk review within 30 days of the request for a second problem solving conference.
2. The reviewer shall report in writing to the applicant/licensee the findings of the second step review conference within 30 days of the conclusion of the conference.
3. Contents of report:
 - a. The reviewer shall address each issue raised by the applicant/licensee, including relevant citations to code or standards, and additional items presented by the applicant/licensee.
 - b. The reviewer shall state the specific reason(s) for the decision rendered regarding each issue.
 - c. The reviewer shall notify the applicant/licensee when there will be a rescission of any portion of the violation notice.
4. The reviewer shall send a copy of the decision to the assistant director of the Division and the licensing administrator, indicating any adjustments that the licensing office must make to the inspection/violation.
5. Rescissions to a Violation Notice
 - a. The licensing representative (or licensing technician) shall access the relevant record in DOLPHIN and make any applicable changes to the inspection/violation following the determination from the second step review.
 - b. The licensing representative (or licensing technician) shall synchronize the case, print the amended violation notice, and forward it to the applicant/licensee for signature.

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- c. The licensing representative (or licensing technician) shall retain the original, signed copy of the violation notice in the licensing record, once it has been returned by the licensee.

307-5.0 AUTHORITY

Code of Virginia, § 63.2-203, 211; 22 VAC 40-80-250 (-280)

307-6.0 RESPONSIBILITY

The division director, assistant division director, operations manager, and licensing administrators shall be responsible for ensuring compliance with this standard operating procedure.

307-7.0 INTERPRETATION

The director of the Division of Licensing Programs shall be responsible for interpreting or granting any exceptions to this standard operating procedure.

307-8.0 SUPERSEDES: First issue

307-9.0 EFFECTIVE DATE: September 29, 2005

307-10.0 REVIEW DATE: Two years from the effective date.

Reviewed and Approved by:

Carolynne H. Stevens, Director Date: September 23, 2005
Division of Licensing Programs

Appendix A



COMMONWEALTH of VIRGINIA

DEPARTMENT OF SOCIAL SERVICES

Acme Child Day Center
1234 Big Street
Roanoke, VA 12345

March 1, 2005

Dear (applicant/licensee):

Below is a summary of your recent first step review problem solving conference, which took place at the Division of Licensing Programs' Piedmont Office on April 29, 2005. Please review it carefully.

Problem Solving Conference Summary

Date of first step review conference/desk review:

Time:

Applicant/Licensee:

Program type: ALF

Address:

Facility/program representative:

Licensing representative:

Licensing administrator:

Disputed item(s):

Summary of Testimony/Written Presentation (licensee, witness, licensing representative):

Description of Physical Evidence (documents and other tangible evidence):

Relevant Discussion:

Determination and Rationale:

If you feel that your concerns about licensing procedures, interpretation of standards, or the actions of licensing personnel have not been resolved satisfactorily during the first step review process, you may request a second step review. Your request must be submitted in writing to this office and received within fifteen (15) days of your receipt of this letter in order to be considered. I may be reached at (123) 456-7890 if you have any questions.

Sincerely,

Wayne Wolfe
Licensing Administrator
Piedmont Office